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WESTERN DISTRICT OF WASHINGTON DEPUTY



09-CV-01637-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BURNIS HERRING,) CASE NO. C09-1637-JLR
Petitioner,)
v.) ORDER OF DISMISSAL
WASHINGTON STATE PENITENTIARY,)
et al.,)
Respondents.)

The Court, having reviewed the Report and Recommendation of United States Magistrate Judge James P. Donohue, the governing law, and the balance of the record, does hereby find and ORDER:

- (1) The Report and Recommendation is ADOPTED;
- (2) Petitioner's 28 U.S.C. § 2254 habeas petition is DISMISSED without prejudice;
- (3) Petitioner is DENIED a Certificate of Appealability; and
- (4) The Clerk of the Court is directed to send copies of this Order to petitioner and to Magistrate Judge Mary Alice Theiler.

DATED this 5th day of April, 2010.


JAMES L. ROBART
United States District Judge